

FAMILY DIVISION OF



THE 28th CIRCUIT COURT

Hon. Charles D. Corwin
CHIEF CIRCUIT COURT JUDGE

Julie A. Vanderheide
CIRCUIT COURT ADMINISTRATOR

Connie F. Roush
BOOKKEEPER

Janice A. O'Riley
DEPUTY CLERK

WEXFORD COUNTY

437 E. Division
CIRCUIT COURT

503 S. Garfield
FAMILY DIVISION
CADILLAC, MICHIGAN 49601

Circuit: 231-779-9490
Family: 231-779-9511

Hon. Kenneth L. Tacoma
PRESIDING JUDGE FAMILY DIVISION

Mary G. Sorger
JUVENILE COURT ADMINISTRATOR

Randall L. Adlam
JUVENILE OFFICER

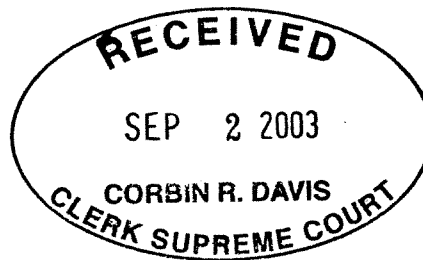
Jennifer L. Sackett
DEPUTY JUVENILE OFFICER

Mr. Corbin R. Davis
Michigan Supreme Court Clerk
P.O. Box 30052
Lansing, MI 48909

August 28, 2003

RE: ADM File No. 2003-23

Dear Mr. Davis:



I am writing in response to the request for comments on the proposed Administrative Order regarding caseload management.

As a general comment, I question the wisdom of administrative orders such as this and its predecessor, 1991-4, as a matter of theoretical jurisprudence. The increasingly frequent resort of the Supreme Court to adopt administrative orders with statewide application in response to problems which are found in few courts is not, in my opinion, a particularly advisable way to deal with problems. Administrative orders such as this have led in the past few years to a high level of bureaucratization of the judiciary which is inconsistent with principled administration of justice on a case-by-case basis. It seems to me that whenever some perceived flaw in the justice system is noted in any part of the state, the first resort is not for the Court to look at that problem as a localized matter, but to adopt an administrative order or court rule with statewide application, thereby afflicting all the trial courts with a bureaucratic "solution" to a problem often only found in one or two areas. I note the first wave of time reporting paperwork in child protection cases was recently circulated; no doubt the precursor to a general reporting requirement under this administrative order.

In addition my general aversion to these kinds of administration orders, I have a few specific objections to the proposed Order. With regard to the provisions dealing with adoption proceedings, this Administrative Order would effectively suspend the provisions of MCL 710.56 which requires the Court wait 6 months after formal placement before confirming an adoption, unless waiver of the 6 month period is in the best interest of the adoptee. This is an odd approach to override the precise terms of a statute containing a time requirement. I think it also ill-advised; it presumes that in 90% of all adoption cases, the Court should be waiving the 6 month supervision requirement. I have personally found that this is a very important period for monitoring adoptive placements; I also believe that if an adoptive placement is going to fail, it is more advisable to have it fail before

Mr. Corbin R. Davis
August 28, 2003
Page Two

the adoption is confirmed, rather than to have the adoption confirmed and then have the child both physically and legally uprooted through a Petition to Rescind an Adoption.

In the portion dealing with domestic relations proceedings, the proposed Administrative Order would have all cases involving divorce with minor children adjudicated within 364 days. While certainly most divorce-with-minor-children cases can be adjudicated within that time frame, 100% does not take into account those occasional cases which present particularly litigious attorneys or issues in which the matter will not be resolved within one year, no matter the efforts of the presiding judge. To pretend otherwise is not a realistic recognition of what goes on at the trial court level, and to force compliance with this kind of a mandate could easily result in the elevation of form over substantial justice for another reason - it is not infrequent that I see cases where counsel stipulate to periods of time where the case is "on hold" in an attempt to effect reconciliation between the parties, rather than dismiss and refile if reconciliation fails. I think that this practice should be encouraged, not have the judge in a position where he or she allows this action at professional peril.

There are also problems with the provisions dealing with time lines dealing with child protective proceedings. Again, substantial justice is going to be sacrificed for compliance with time mandates when the inflexible requirements of this rule are applied. Contrary to the time study value attached to these cases, the cases which ultimately are litigated in my court in child protective proceedings are almost always, as in all other forms of litigation, complicated cases which occur where the result is in question. These are not simple cases; a perfunctory ruling from the bench pretending that this is so would be an insult to the parties and attorneys in almost all of the cases that I have handled which have gone to full contested termination proceedings.

In sum, I do not approve of the Order in general, and adopting a universal, hard-line rule that will hurt conscientious trial judges who do not have docket management problems is a poor way to deal with this perceived problem.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kenneth L. Tacoma". The signature is fluid and cursive, with the first name "Kenneth" written in a smaller, more compact script and the last name "Tacoma" in a larger, more prominent script.

Hon. Kenneth L. Tacoma
28th Circuit Presiding Judge, Family Division
Wexford County Probate Judge

KLT:tlw